IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1717 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 21/09/2004 in WP NO : 2681 OF 2001 on the file of the High Court.)

Between:

M/s. Sri Devi Hotels Private Limited, Rep by its Managing Director
M. Mohan Reddy, S/o. Pratap Reddy, aged 43 years,
R/o. H.No. 7-10-910/2, Station Road, Nizamabad.

..... APPELLANT

AND

1 The A.P. State Financial Corporation, Rep by its Managing Director,
5-9-194, Chirag Ali Lane, Abids, Hyderabad.
2 The Senior Branch Manager, A.P. State Financial Corporation,
Nizamabad Branch, Nizamabad.

.....RESPONDENT(S)

Counsel for the Appellant:MR.VENKATESWARLU POSANI

Counsel for the Respondent Nos.1 and 2: Mr.Y.N.LOHITA (SC FOR AP State Financial Corporation)

The Court made the following Oral Judgment: (per Sri Devinder Gupta, CJ)

Appellant-writ petitioner was granted financial assistance by the respondent-Corporation. Appellant fell in arrears and was unable to repay the amount of loan and on 31.7.1997, it submitted a proposal for settlement of the account on "One Time Settlement" (O.T.S.) basis. The said proposal has been under consideration by the Board of respondent-Corporation and there had been lot of exchange of letters between the appellant and respondent-Corporation as regards the exact amount of O.T.S., of which, account could be finally settled. On 18th February, 2000, when the respondent-Corporation conveyed to the appellant the decision of the Board of Directors in its meeting held on 8.2.2000 pointing out that crystalised O.T.S. amount arrived at is Rs.93.00 lakhs and 35% thereof amounting to Rs.32.55 lakhs has to be paid on or before 31.3.2000 and the balance of Rs.60.45 lakhs in five bi-monthly instalments of Rs.12.09 lakhs. The crystalised amount of Rs.93.00 lakhs shall carry further interest at the prevailing rate from 1.11.1999 till the date of closure of the account. Appellant appears to have entertained some doubt as regards the amounts which had already been paid by the appellant, which had been kept by the respondent-Corporation as Sundry Deposits. Appellant again committed default, which led to the respondent-Corporation initiating some action against the appellant, against which Writ Petition No. 21863 of 2000 was filed. That writ petition was disposed of on 7.12.2000 permitting the appellant to deposit a sum of Rs.15.00 lakhs on or before 31.1.2001 and to approach the Corporation with a fresh representation. After deposit of Rs.15.00 lakhs, again there was default, and, again, the respondent had issued fresh demand notice dated 31.1.2001 and being aggrieved, Writ Petition No. 2681 of 2001 was filed by the appellant, which was dismissed by the learned single judge on 21.9.2004. Hence, this appeal.

We have heard the learned counsel for the parties.

The grievance of the learned counsel for the appellant was that appellant was not made clear as to whether the amounts paid by the appellant and kept by the respondent as Sundry Deposit were or were not adjusted when OTS amount was crystalised in proceedings dated 8th February, 2000 at Rs.93.00 lakhs.

We are of the view that whatever amounts the appellant-writ petitioner had paid upto 8th February, 2000 had duly been adjusted and no amount remain to be adjusted upto that date. Therefore appellant had to deposit Rs.32.55 lakhs on or before 31.3.2000, being 35% of the O.T.S. amount. As a matter of fact, appellant had deposited only Rs.16,55,000/- on 31.3.2000. Even the five bi-monthly instalments of Rs.12.09 lakhs were not deposited as stipulated. The interest amount of Rs.15.00 lakhs has been deposited on 30.1.2001 and another sum of Rs.40,45,000/- on 29.6.2001. The OTS proposal was though accepted by the respondent-Corporation subject to certain conditions, but those conditions were not complied with by the appellant and for that reason, demand notice has been issued by the respondent-Corporation and we are satisfied that while working out OTS amount, all payments made by the appellant upto 8th February, 2000 were duly taken note of and adjusted. In that view of the matter, there is hardly any ground to interfere with the order passed by the learned single judge.

Learned counsel for the respondent-Corporation also states that O.T.S. proposal was considered by the respondent-Corporation and the same was duly communicated to the appellant in the year 2000.

In the circumstances, the only direction, which, we are inclined to issue at this stage while disposing of the writ appeal would be that on appellant making a detailed representation for permitting the appellant to take a lenient view of the case for waiver of interest and on the appellant agreeing to pay the loan amount in instalments, on which representation, respondent-Corporation will take sympathetic view and take appropriate decision and convey the same to the appellant. Till decision is taken by the respondent-Corporation and communicated to the appellant, no coercive steps be taken against the appellant for realization of the amount.

Accordingly, we dispose of the writ appeal and direct that on the appellant making a representation within ten days, the respondent- Corporation will take appropriate decision on the said representation within a period of one month thereafter and duly communicate the same by giving reasonable opportunity to the appellant to start making payments. Till then, no coercive steps be taken by the respondent-Corporation. No costs.

DEVINDER GUPTA, CJ

Date: 8th November, 2004

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C.V.RAMULU,J

Note: Furnish c.c. by tomorrow

B/o

Pnb

To

1 The Managing Director, A.P. State Financial Corporation,
5-9-194, Chirag Ali Lane, Abids, Hyderabad.
2 The Senior Branch Manager, A.P. State Financial Corporation,
Nizamabad Branch, Nizamabad.

3 Two C.D. Copies